



1010 WEST ST. GERMAIN STREET  
SUITE 500  
ST. CLOUD, MN 56301  
MAIN: 320.252.4414  
FAX: 320.252.4482

PHILLIP L. KUNKEL  
ATTORNEY  
PHILLIP.KUNKEL@GPMMLAW.COM

December 27, 2017

Hon. Leo I. Brisbois  
U.S. Magistrate Judge  
515 West 1<sup>st</sup> Street  
Room 412  
Duluth MN 55802

Re: Diocese of Duluth v. Liberty Mutual, et al.  
Adversary Proceeding No. 16-05012  
U.S. District Court Case No. 17-03254 (DWF/LIB)

Dear Magistrate Judge Brisbois:

Please be advised we are local counsel for the Diocese of Duluth (the "Diocese") in the above matter. We are writing to apprise the Court of recent developments in the underlying bankruptcy case which affect this matter.

The Diocese has reached settlements with two of the insurers which are parties to this action, pending Bankruptcy Court approval. A hearing to approve those settlements is set before the Bankruptcy Court for January 4, 2018. Assuming the Bankruptcy Court approves the settlements, we anticipate filing stipulations of dismissal with the Court shortly thereafter.

In addition, the Diocese, the remaining parties to this action, the parishes of the Diocese, the Official Committee of Unsecured Creditors in the underlying bankruptcy case and the claimants have agreed to seek your authorization to continue mediation with The Honorable Gregg W. Zive on January 10, 2018. The parties have previously participated in mediation with Judge Zive in July and November 2016. We have also continued to informally seek his guidance throughout the pendency of the bankruptcy proceeding. All parties to this action<sup>1</sup>, as well as the other parties whose participation is essential to a global resolution of the bankruptcy case, believe that Judge Zive's familiarity with the issues, his experience in mediating other similar cases, and his involvement in other Minnesota Catholic bankruptcy cases all support this request.

We note the Court reserved the appointment of a mediator in this matter in its Pretrial Scheduling Order of August 9, 2017 [Doc. # 30]. We respectfully request the Court appoint Judge Zive as

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<sup>1</sup> The Diocese is working to confirm that Church Mutual Insurance Company consents to mediation on January 10, 2018. Based upon recent communication between the parties, it anticipates that Church Mutual Insurance Company will agree to the proposed mediation schedule.

mediator and authorize the parties to proceed. We are hopeful that meaningful progress can be made to resolve both this declaratory judgment action and the underlying bankruptcy case.

Very truly yours,

GRAY PLANT MOOTY  
MOOTY & BENNETT, P.A.

Phillip L. Kunkel  
Attorney

cc: Counsel of Record (via ECF)  
The Honorable Robert J. Kressel, United States Bankruptcy Judge